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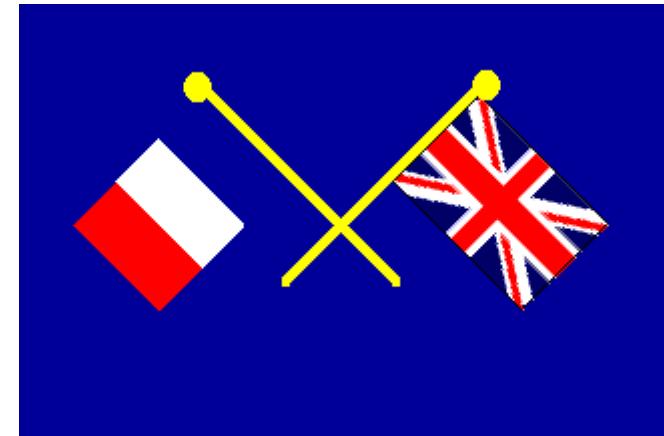
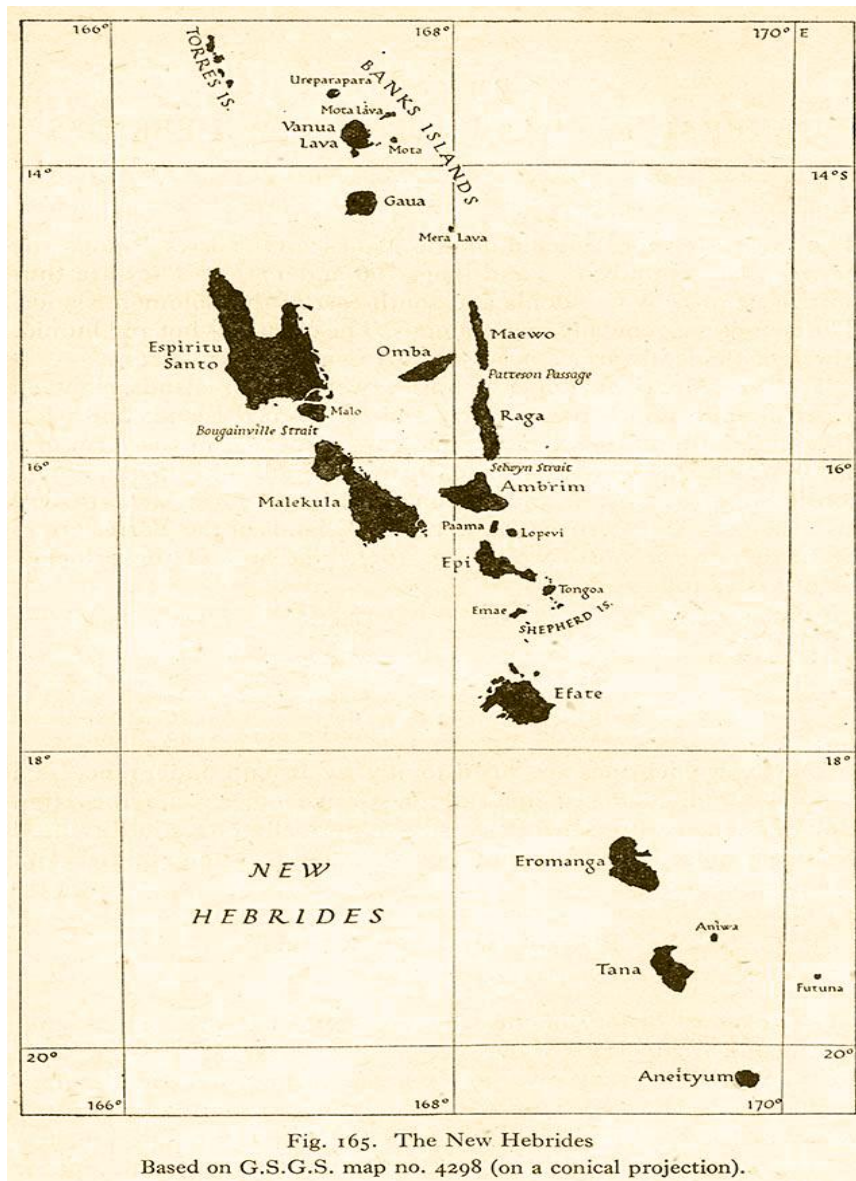
PACIFIC PUNCH

TROPICAL
FLAVOURS OF
MIXEDNESS
IN THE
ISLAND
REPUBLIC OF
VANUATU

Sue Farran







- **THE CONDOMINIUM AND A MIXING EXPERIMENT**
- **INDEPENDENCE AND THE CHANCE FOR A CLASSICAL MIX?**
- **THE INGREDIENTS WHICH UNDO MIXTURES**
- **THE POSSIBILITY OF A NEW MIX**
- **CHALLENGING COCKTAIL RECIPES**

THE CONDOMINIUM OF THE NEW HEBRIDES

- 1606 – the search for Terra Australis and the discovery of Espiritu Santo
- 1774 – Cook names the New Hebrides
- 1840s – Catholic and Presbyterian missions to save souls and settlers arrive
- 1878 – Anglo-French agreement NOT to intervene in the islands
- 1887 – Anglo-French Convention to establish a joint naval presence (1888)
- 1902 – the appointment of separate Resident Commissioners
- 1904 – Overtures for shared government
- 1906 – Convention confirming an agreement to set up a 'sphere of joint influence'
- 1914 – Protocol Respecting the New Hebrides (1922)
- 1975 – Establishment of Representative Assembly
- 1978 – New Hebridean Government of National Unity
- 1979 – France and Britain agree to grant independence
- 1980 – Santo and Tanna rebellions
- Independence



THE LEGAL SYSTEM UNDER THE CONDOMINIUM



Take one part coffee liqueur
One part Grand Marnier / Triple Sec
One part (Irish) cream or similar
Decorate with a stirrer

- Joint influence but parallel administration
- Separate High and Resident Commissioners
- Dualism for French and British subjects and optants
- Separate National/High Courts
- Joint regulations for 'natives'
- Native (criminal) courts (1909-1928)
- (Mixed) Customary law for 'natives'
- The Joint Court (1910) – with a Spanish President for land and civil matters



THE REPUBLIC OF VANUATU

**INDEPENDENCE AND
THE CHANCE FOR A
CLASSICAL MIX**

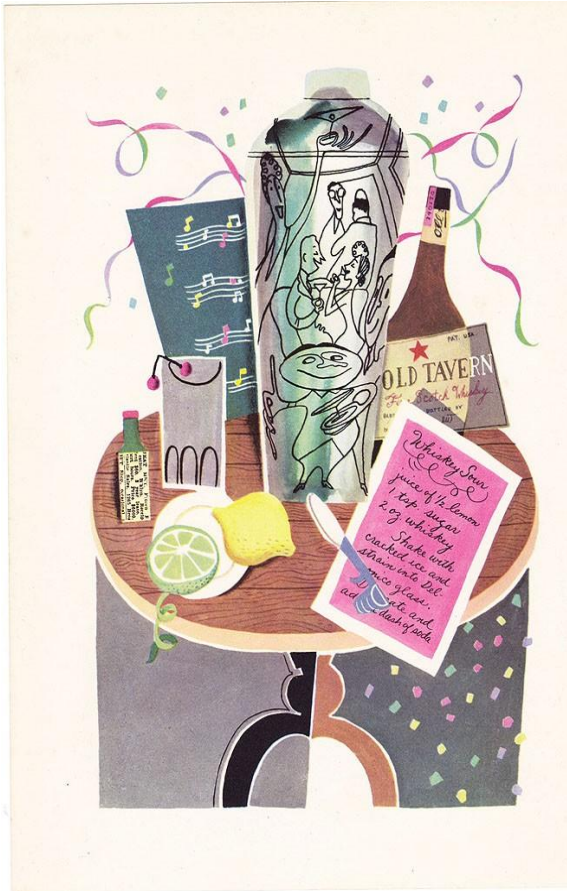


- Retention of French and British laws
- Official Trilingualism
- Retention of existing judges
- Melanesian Francophiles and Anglophiles
- Little legislative private law reform
- The Constitution of the Republic
- But Westminster model and common law court structure
- The continuing possibility of 'opting'
- A new role for customary law and customary institutions

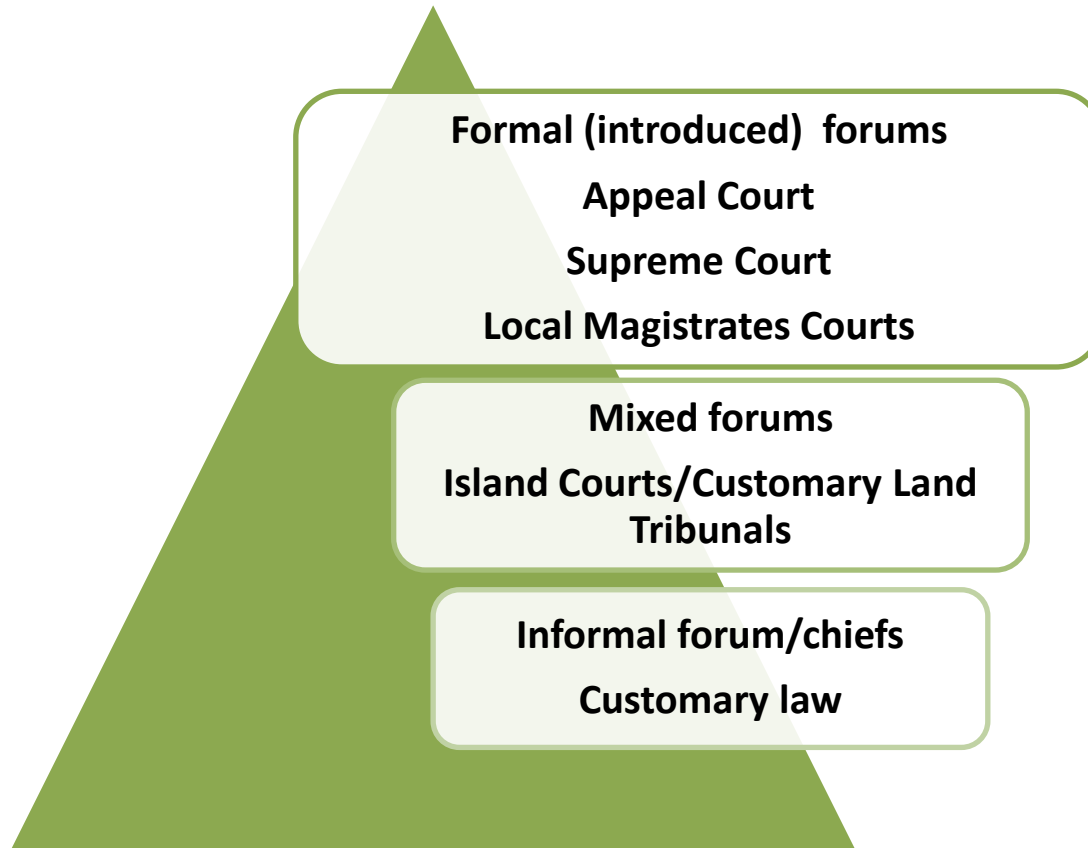
THE INGREDIENTS WHICH UNDO MIXTURES

- Politics and religion
 - A second reception of common law through case-law
 - Judicial appointments and the training of lawyers
 - Bi and trilingualism in legal services
 - Law reform and the advocacy of common law models
 - Aid for development
- Politics and religion
 - Loss of French legal literacy
 - Lack of French lawyers or opportunities for Francophone ni-Vanuatu to study French law
 - Backlog of legal translation
 - Absence of advocates/champions for French law
 - Focus on culture and Francophonie not law

THE POSSIBILITY OF A NEW MIX

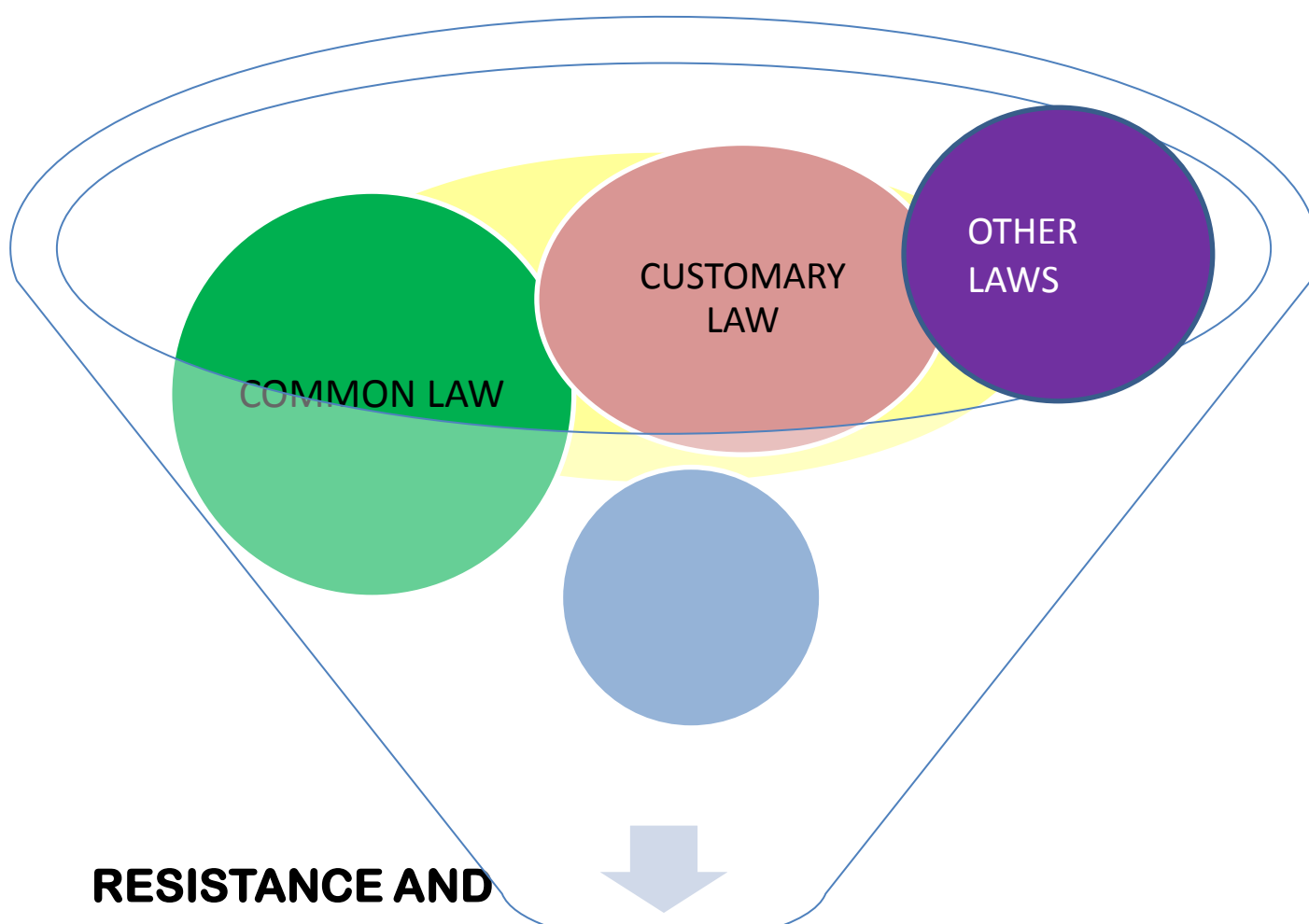


- Customary and colonial laws (family/land/criminal)
- The Constitution and custom
- Island Courts and Customary Land Tribunals
- Indigenous magistrates and lawyers
- Advocates of custom
- Changing needs/changing practices
- A blended example. IP





CHALLENGING COCKTAIL RECIPES



**RESISTANCE AND
REALITY IN NEO-COLONIALISM
PURISTS AND PRAGMATISTS
LEGAL DEVELOPMENT AND SUSTAINABILITY**

A PACIFIC MIX

Step One

Take equal parts of French and English law – do not stir

Add to a base layer of indigenous law

Use two straws to link the layers together via joint regulations

Step Two

Remove straws

Use constitutional swizzle stick to gently stir

Allow ingredients to settle

Add more English law

Add a sprinkling of international law

Step Three

Stir base layer of customary law thoroughly to disperse through mixture

Add more international law

Top up with formalised customary law

Adjust to taste

